

Park City Family Healthcare and its workers' compensation insurance carrier, Workers Compensation Fund (referred to jointly as "Healthcare" hereafter), ask the Appeals Board of the Utah Labor Commission to review Administrative Law Judge La Jeunesse's award of benefits to P. E. P. under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND

On December 5, 2003, Ms. P. filed an Application For Hearing with the Commission to compel Healthcare to pay workers' compensation benefits for alleged work-related injury to her left shoulder and arm. Healthcare filed a timely Answer denying Ms. P.'s claim. Specifically, Healthcare asserted its intention to "hold Ms. P. to her proof" that her accident at Healthcare was the medical and legal cause of her injury. Healthcare also stated that some of Ms. P.'s medical records "show that she has a pre-existing left upper extremity condition" which would trigger application of the more stringent *Allen* test for legal causation. Healthcare's Answer concluded by stating that Healthcare intended to take Ms. P.'s deposition and to obtain its own medical evaluation of Ms. P..

On February 5, 2004, Ms. P.'s claim was scheduled for a formal evidentiary hearing to be held on June 3, 2004.

On April 13, 2004, Ms. P. filed a document entitled "Motion To Strike Defendants' Answer and Grant Judgment For The Petitioner." In this Motion To Strike, Ms. P. accused Healthcare of knowingly misstating facts in its Answer by asserting the existence of a preexisting left-shoulder injury. Ms. P. asked that Healthcare's Answer be stricken and that she be summarily awarded benefits.

With Ms. P.'s Motion To Strike still pending, Ms. P. and Healthcare submitted their Pretrial Disclosure Statements. Healthcare's Disclosure stated its intention to litigate the issues of: 1) the nature of the work accident; 2) whether the accident medically caused Ms. P.'s injuries; 3) whether Ms. P. suffered from a preexisting injury that would trigger application of the more stringent *Allen* test for legal causation; and 4) whether the circumstances of Ms. P.'s accident satisfied the requirements of the *Allen* test. Then, on April 26, 2004, Healthcare submitted a specific response to Ms. P.'s Motion To Strike. Healthcare's response included medical records from July 2001 which might show that Ms. P. did have a preexisting left shoulder condition. However, the records appeared to have been altered to change the references from "left" shoulder to "right" shoulder. Healthcare stated that it was attempting to locate the original medical records. Healthcare also advised that it had scheduled its own medical evaluation of Ms. P. for May 11, 2004.

On April 30, 2004, Judge La Jeunesse granted Ms. P.'s Motion To Strike on the grounds that Healthcare

denied Ms. P.'s claim and advanced defenses in [its] answer concerning medical causation and preexisting medical problems on mere conjecture and speculation in the face of positive evidence supporting Ms. P.'s claim. As of the filing of respondents' pre-trial disclosure [Healthcare] still had nothing concrete to support [its] defenses based on medical causation. (Footnote omitted.) Accordingly, respondent's defenses based on lack of medical causation and preexisting medical pathology with respect to Ms. P.'s left upper extremity shall be stricken.

On May 13, 2004, Healthcare asked for continuance of the evidentiary hearing scheduled for June 3 because Ms. P. had stated she was not available to attend the medical evaluation Healthcare had scheduled for May 11. Healthcare had rescheduled the evaluation for June 2, but the report would not be available for the hearing on June 3. Judge La Jeunesse denied Healthcare's request for continuance, reasoning that, since Healthcare's medical causation defenses had already been struck, he "saw no need for the [medical evaluation] in any event."

On May 28, 2004, Healthcare submitted additional recently acquired medical records to be added to the previously-submitted medical record. These records contain some evidence that Ms. P. received medical attention for a left shoulder problem during July 2001. However, Judge La Jeunesse refused to admit the records into evidence at the hearing on June 3. Judge La Jeunesse explained that: 1) he did not consider the medical records relevant in view of his previous ruling striking Healthcare's defenses of medical causation and preexisting medical condition; and 2) the records had been submitted late.

On November 26, 2004, Judge La Jeunesse issued his decision finding that Ms. P.'s left arm injury had been caused by a work-related accident at Healthcare on February 19, 2003, and that Ms. P. was entitled to workers' compensation medical and disability benefits for that injury.

ISSUE PRESENTED

In its motion for review of Judge La Jeunesse's decision, Healthcare contends that Judge La Jeunesse erred in striking Healthcare's defenses of medical causation and preexisting medical conditions.

DISCUSSION AND CONCLUSIONS OF LAW

In considering the issues raised by Healthcare's motion for review, the Appeals Board notes that, as a general principle, cases should be decided on their merits after a full hearing in which parties are able to present relevant evidence and argument. While procedural standards are necessary to guide this process, the objective of such procedural standards is to **facilitate** an orderly hearing process, not to **preclude** the hearing. Furthermore, in workers' compensation cases, motion practice is disfavored. The effort and time spent in filing, responding to and then deciding preliminary motions are usually better spent on preparing for hearing and then deciding the matter on the merits. With these general principles in mind, the Appeals Board turns to Healthcare's objections to procedures followed in this case.

After Ms. P. filed her Application For Hearing, Healthcare filed a timely Answer in which it denied that a medical causal connection existed between Ms. P.'s left arm injury and her work at

Healthcare. The Answer also raised as an affirmative defense Healthcare's belief that Ms. P. had a preexisting left arm condition that triggered application of the more stringent *Allen* test for legal causation. The Appeals Board finds nothing in Healthcare's Answer that can reasonably be taken as bad faith or misrepresentation. Healthcare should have been allowed the period between filing its Answer and the hearing to gather information regarding Ms. P.'s claim. However, that process was improperly short-circuited by Ms. P.'s Motion To Strike and the ALJ's granting of that motion.

The Appeals Board wishes to emphasize that it is entirely appropriate for ALJs to hold parties to procedural rules adopted by the Commission. Furthermore, the ALJ has authority to manage and direct the adjudication process. However, an ALJ's actions must be reasonable and fair under the circumstances of the particular case. Because the Appeals Board finds an insufficient basis for Ms. P.'s Motion To Strike, the Appeals Board sets aside Judge La Jeunesse's Order Granting Motion To Strike, as well as Judge La Jeunesse's subsequent Findings Of Fact, Conclusions Of Law and Order. The Appeals Board remands this matter to the Adjudication Division to conduct such additional proceedings as are necessary to establish a full record on the merits of Ms. P.'s claim, and then issue a new decision on the claim.

ORDER

The Appeals Board grants Healthcare's motion for review, reverses Judge La Jeunesse's decision, and remands Ms. P.'s claim to the Adjudication Division for further proceedings consistent with this decision. It is so ordered.

Dated this 29th day of April, 2005.

Colleen S. Colton, Chair
Patricia S. Drawe
Joseph E. Hatch